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COMMERCE COURT WEST
TORONTO ON M5L 1J3 CA CANADA

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of
Michael Shenfield, et al.
Application No. 10/767,728
Filed: January 30, 2004
Attorney Docket No. T8467911US

ON PETITION

This is a decision in response to the petition, filed January 16, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Jonathan Pollack appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner; however, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

It is noted that on November 3, 2008, Mr. Pollack filed a request to change the correspondence address to the address noted on the present petition. Since the record fails to show that Mr. Pollack was ever given a power of attorney to prosecute this application, the change of correspondence address could not be processed. If Mr. Pollack desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted.

The petition is **GRANTED**.

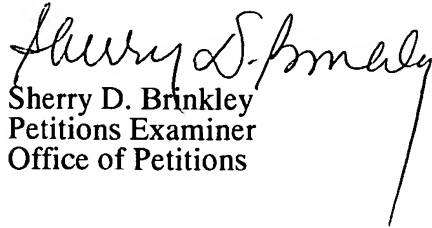
The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed October 5, 2007 which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 6, 2008. A Notice of Abandonment was mailed on August 19, 2008. On January 16, 2009 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of \$1,620; and (3) an adequate statement of unintentional delay¹.

¹ 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being referred to Technology Center AU 2194 for appropriate action by the Examiner in the normal course of business on the reply received January 16, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JONATHAN POLLACK
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